

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

REC'D 21 AUG 2006

PCT/ISA

PCT

To:  
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## WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing  
(day/month/year)

17 AUG 2006

FOR FURTHER ACTION

See paragraph 2 below

Applicant's or agent's file reference

CASE 1050

International application No.

International filing date (day/month/year)

Priority date (day/month/year)

PCT/US04/43501

23 December 2004 (23.12.2004)

23 December 2003 (23.12.2003)

International Patent Classification (IPC) or both national classification and IPC

IPC: Please See Continuation Sheet

USPC: 435/5;530/387.1;300;424/130.1;536/23.1

Applicant

TANOX, INC.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

### 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/ US

Mail Stop PCT, Attn: ISA/US  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Facsimile No. (571) 273-3201

Date of completion of this  
opinion

10 July 2006 (10.07.2006)

Authorized officer

Christopher H. Yaen

Telephone No. 571-272-0600

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US04/43501

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of:

- ☒ the international application in the language in which it was filed
- ☐ a translation of the international application into \_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

- ☒ a sequence listing
- ☐ table(s) related to the sequence listing

b. format of material

- ☒ on paper
- ☒ in electronic form

c. time of filing/furnishing

- ☒ contained in the international application as filed.
- ☒ filed together with the international application in electronic form.
- ☐ furnished subsequently to this Authority for the purposes of search.

3. ☒ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

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International application No.  
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Box No. V Reasoned statement under Rule 43 *bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>2-6,8-13,17-33,37-61</u>	YES
	Claims <u>1,7,14-16,34-36</u>	NO
Inventive step (IS)	Claims <u>2-6,8-13,17-33 and 37-61</u>	YES
	Claims <u>1,7,14-16 and 34-36</u>	NO
Industrial applicability (IA)	Claims <u>1-61</u>	YES
	Claims <u>NONE</u>	NO

2. Citations and explanations:

Claims 1,7,14-16, and 34-36 lack novelty under PCT Article 33(2) as being anticipated by Willson *et al* (US Patent 6,911,530 filed 10/13/2000). Willson *et al* teach antibodies to IL-13 (see col. 2, for example) and further teach monoclonal forms as well as fragments of such antibodies, such as Fabs (see cols. 13-16, for example).

Claims 2-6,8-13,17-33,37-61 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest the claimed invention.

Claims 1-61 meet the criteria set out in PCT Article 33(4), and thus meet industrial applicability because the subject matter claimed can be made or used in industry.

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**Supplemental Box**  
In case the space in any of the preceding boxes is not sufficient.

Continuation of IPC:  
C12Q 1/70( 2006.01);A61K 39/395( 2006.01);C07K 16/00( 2006.01);C07K 4/00( 2006.01);C07H 21/04( 2006.01)  
A61K 38/00( 2006.01);C07K 2/00( 2006.01),5/00( 2006.01),7/00( 2006.01),14/00( 2006.01),16/00( 2006.01),17/00( 2006.01);C07H  
21/02( 2006.01)